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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/787,197

02/27/2004

Katsumi Takehara

58647-180

4572

7590 05/07/2007  
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EXAMINER
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HOEKSTRA, JEFFREY GERBEN

ART UNIT	PAPER NUMBER
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3736

MAIL DATE	DELIVERY MODE
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05/07/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/787,197

Applicant(s)

TAKEHARA, KATSUMI

Examiner

Jeffrey G. Hoekstra

Art Unit

3736

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 06 February 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) 1-13 and 20-26 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 14-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 February 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Notice of Amendment***

1. In response to the amendment filed on 02/06/2007, amended claim(s) 18 and 19 is/are acknowledged. The current rejections of the claim(s) 14-19 is/are *withdrawn*.

The following new and reiterated grounds of rejection are set forth:

***Drawings***

2. The drawings were received on 02/06/2007. These drawings are acceptable.

***Claim Rejections - 35 USC § 102***

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 14-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Kamada et al (US 2001/0007924 A1) as broadly as structurally claimed.

5. For claims 14 and 17, Kamada et al discloses a body composition measuring apparatus as broadly as structurally claimed, comprising:

- an electric current applying unit (21) for applying a variable electric current to a living body (paragraphs 33 and 42);
- a voltage measuring unit (25) for measuring a voltage (paragraphs 33 and 43);
- a bioelectrical impedance computing unit (S10) for computing a parameter (the bioelectrical impedance vector positively recited in paragraph 45) associated with a bioelectrical impedance of a measured body part from the applied electric current and the measured voltage at a given frequency (paragraphs 44-47);

- a correcting unit (arithmetic and control unit element 2 in combination with the arithmetic operations held within ROM element 3, including steps S15 and S16 performed by 2 and 3) for correcting the parameter value associated with the measured bioelectrical impedance by use of a parameter (paragraphs 11 and 14) (the ICW/ECW positively recited in paragraph 62) representing an intracellular/extracellular fluid ratio which is included in the parameter value of the bioelectrical impedance measured at a given frequency (paragraph 42); and
- a body composition computing unit (Block 1) for computing an index (S19) associated with a body composition based on the corrected parameter value associated with the bioelectrical impedance.

6. For claim 15, Kamada et al discloses a body composition measuring apparatus, wherein the given frequency is the frequency of the electric current applied to the living body for estimation of the body composition as best seen in Figure 10 (paragraph 42).

7. For claim 16, Kamada et al discloses a body composition measuring apparatus, wherein the given frequency is a frequency different from the frequency of the electric current applied to the living body for estimation of the body composition as best seen in Figure 10 (paragraph 42).

8. For claim 18, Kamada et al discloses a body composition measuring apparatus capable of computing the following mathematical relation: when the parameter associated with the bioelectrical impedance which has been corrected by the parameter associated with the bioelectrical impedance which represents the intracellular/extracellular fluid ratio is  $P'$ , the correction of the parameter associated with

the bioelectrical impedance in the correcting unit is made in accordance with the following correction expression:  $P' = f(P, \alpha) = (K)(P^A)(\alpha^B) + C$  wherein  $f(P, \alpha)$  is a correction function represented by parameters  $P$  and  $\alpha$ ,  $P'$  is the corrected parameter associated with the bioelectrical impedance,  $P$  is the measured parameter associated with the bioelectrical impedance,  $\alpha$  is the parameter associated with the bioelectrical impedance which represents the intracellular/extracellular fluid ratio, and  $A$ ,  $B$ ,  $C$  and  $K$  are constants.

9. For claim 19, Kamada et al discloses a body composition measuring apparatus capable of computing the following mathematical relation: the parameter  $\alpha$  associated with the bioelectrical impedance, which represents the intracellular/extracellular fluid ratio, is expressed as follows by use of a phase difference  $\phi$  between the waveform of the alternating current applied from the electric current applying means to the living body and the waveform of the voltage measured by the voltage measuring means at the time of measurement of the bioelectrical impedance:  $\alpha = 1/\phi$ .

### ***Response to Arguments***

10. Applicant's arguments filed 02/06/2007 have been fully considered but they are not persuasive. Applicant argues Kamada does not disclose, teach or fairly suggest (a) a correcting unit that corrects a parameter value associated with a measured bioelectrical impedance or (b) the claimed limitations of claims 18 and 19. The Examiner disagrees, maintains the rejection, and notes the following:

11. In response to applicant's argument that (a) a correcting unit that corrects a parameter value associated with a measured bioelectrical impedance, a recitation of the

intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In this case Kamada discloses the use of a computing unit capable of performing the intended uses as claimed. In this case Kamada discloses the use of a computing unit capable of performing the intended correcting uses as claimed.

12. In response to applicant's argument that Kamada does not disclose, teach or fairly suggest (b) the claimed limitations of claims 18 and 19, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In this case Kamada discloses the use of a computing unit capable of performing the intended arithmetic uses as claimed.

### ***Conclusion***

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Sarrazin et al. (US 6,208,890 B1) discloses a body composition measuring apparatus with a calculator unit for processing the measured body composition data.

14. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey G. Hoekstra whose telephone number is (571) 272-7232. The examiner can normally be reached on Monday through Friday, 8:00 a.m. to 5:00 p.m. EST.

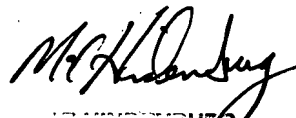
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max F. Hindenburg can be reached on (571) 272-4726. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3736

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JH

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